

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE:
FILE NUMBER:

Omaha District, South Dakota Regulatory Office
200530015

REGULATORY PROJECT MANAGER:

Carolyn Kutz

Date: 2/2/2005

PROJECT REVIEW/DETERMINATION COMPLETED:

In the office Y (Y/N)

Date: 2/2/2005

At the project site N (Y/N) **Date:** _____

PROJECT LOCATION INFORMATION:

State:

South Dakota

County:

Marshall

Center coordinates of site by latitude & longitudinal coordinates:

Lat 45-53-38.3543 Long 97-41-40.9555

Approximate size of site/property (including uplands & in acres):

0.12 acres

Name of waterway or watershed:

wetland

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands			X						
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹ Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.									

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?					X
Is or would be used as habitat by other migratory birds that cross state lines?					X
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	
¹ Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.					

TYPE OF DETERMINATION:

Preliminary ☐ Or Approved ☒.

OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs): 1. The proposed project is to drive piling to provide additional support for a railroad bridge in 1 non jurisdictional wetland. The area is located within the railroad right of way northeast of Kidder. 2. NWI maps were used to make the jurisdictional determinations. The area has no potential for ICC navigation. The wetland has no potential and has not had potential for interstate commerce at 328.3(a).3.i.ii.iii. The project had 8 areas of consideration. Beaver Creek, 3 unnamed creeks and Long Creek are all part of tributary systems to the Big Sioux River, which is an interstate WUS and 3 wetlands are considered isolated and non jurisdictional (SWANCC) as there is no surface hydrologic connection to an interstate waters of the US and does not support interstate commerce.